

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte HIDEAKI MURAKAMI

Application 10/698,481
Technology Center 3600

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on May 18, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

A review of the file indicates that on May 24, 2006, Appellant filed an Appeal Brief under the rules set forth in 37 CFR § 41.37(c). However, the Appeal Brief filed on May 24, 2006, does not fully comply with the new rules under 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(I) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(I) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(v) ***Summary of claimed subject matter.*** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

An in-depth review of the Appeal Brief indicates that the following sections are deficient from the Appeal Brief filed May 24, 2006:

- 1) “Summary of Claimed Subject Matter,” as set forth in 37 CFR § 41.37(c)(1)(v); It is required that a supplemental Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c). For more information on the Board’s new rules, please see the web page entitled “More Information on the Rules of Practice Before the BPAI,” Final Rule at:

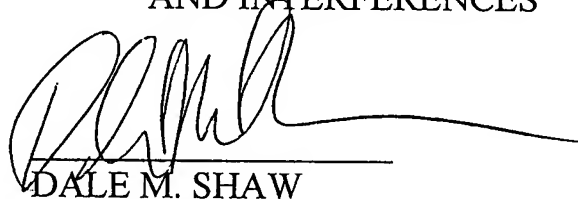
<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

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Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on May 24, 2006, defective;
- 2) notify Appellant to file a supplemental Appeal Brief in compliance with 37 CFR § 41.37;
- 3) to vacate the Examiner Answer mailed July 19, 2006, in response to the Appeal Brief, and submit a revised Examiner's Answer in response to the supplemental Appeal Brief if appropriate; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

A handwritten signature in dark ink, appearing to read 'D. Shaw', is written over a horizontal line.

DALE M. SHAW
Chief Appeals Administrator
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DS/tlc

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